## MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT

AUG 0 4 2020

BY A PERSON IN FEDERAL CUSTODY

PETERA MOORE, JR., CLERK
US DISTRICT COURT, EDNC
DEP CLK

SY COUNTY
United States District Court North Carolina District Eastern
Name (under which you were convicted):  Docket or Case No.:
KeJuan Tizom Shabazz Smith 7:16-CR-120-1-D
Place of Confinement: U.S.P. Hazelton Prisoner No.: 62815-056
UNITED STATES OF AMERICA Movarit (include name under which you were convicted)
v. Ke Juan Tizom Shabazz Smith
MOTION
1. (a) Name and location of court that entered the judgment of conviction you are challenging:  UNITED STATES DISTRICT COURT, Eastern DISTRICT OF NORTH CAROLINA
(b) Criminal docket or case number (if you know): 04/71 7:16-CR-001200-001
2. (a) Date of the judgment of conviction (if you know): $4-4-20/7$
(b) Date of sentencing: 9-13-2017
3. Length of sentence: 200 months 327 Months
4. Nature of crime (all counts): countil conspiracy to distribute of a quantity of Heroin;
4. Nature of crime (all counts): Countil conspiracy to distribute of a quantity of Heroin, Counts 3,5, and 6: Distribution of a quantity of Heroin and Aiding and
Abetting. count 12: Possession of a Firearm by a Felon, and count 13:
Possession of a Stolen Firerm
5. (a) What was your plea? (Check one)
(1) Not guilty (2) (2) Guilty (3) Nolo contendere (no contest) (1)
(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count
or indictment, what did you plead guilty to and what did you plead not guilty to?
마음을 맞은 사이 아이들은 이번 것들이 있는 나는 이 사람들은 만하는 한 것 같아요?

		Dogo 2	
		Page 3	
7. Did you testify at a pretrial hearing, trial, or post-trial hearing?	Yes □	No 🗹	
B. Did you appeal from the judgment of conviction?	Yes 🗗	No □	
9. If you did appeal, answer the following:			
(a) Name of court: United STATES Court of Appeals For	the Fourth	, circuit	
(b) Docket or case number (if you know): 17-4594			
(c) Result: Affirmed			
(d) Date of result (if you know): \$ 10-2-2018			
(e) Citation to the case (if you know): 7			
(0.0) : 1			
Appellate counsel Filed on "Anders" bris	ef claim	ing there	were
no miritorious issues for appeal	: :		
		(1.7 m 1.7 )	
(g) Did you file a petition for certiorari in the United States Suprem	ie Court?	Yes □ No 🕪	•

(3) Date of result (if you know):

If "Yes," answer the following: .

(1) Docket or case number (if you know):

(4) Citation to the case (if you know):

(5) Grounds raised:

(2) Result:

10. Other than the direct appeals listed above, have you previously filed any other motions petitions, or applications concerning this judgment of conviction in any court?

Yes. 

No. 

Yes.

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?	Yes 🖸	No 🖾	
8. Did you appeal from the judgment of conviction?	Yes 🛛	No □ :	•
9. If you did appeal, answer the following:			
(a) Name of court: UNITED STATES COURT OF Appeals For	the Fourt	h-circuit	
(b) Docket or case number (if you know): 17-4594	•••••		
(c) Result: Affirmed			
(d) Date of result (if you know): \$ 10-2-2018			
(e) Citation to the case (if you know): ?			
(f) Grounds raised:			
Appellate counsel Filed an "Anders" bris	et clair	ning the	a me
no minitorious issues for appeal			
(g) Did you file a petition for certiorari in the United States Suprem	ne Court?	Yes □ No t	<b>V</b>
If "Yes," answer the following:			
(1) Docket or case number (if you know):		•	
(2) Result:			
(3) Date of result (if you know):			
(4) Citation to the case (if you know):			
(5) Grounds raised:			: .
		}	
물 하는 이미 회장 보이 한 중 장상을 받는 그릇이 이용 중국		,	
. Other than the direct appeals listed above, have you previously filed	any other mo	ntions	
petitions, or applications concerning this judgment of conviction in a		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
Yes \( \) No \( \)			

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

Yes □ No □Y

- (2) Docket or case number (if you know):
- (3) Date of filing (if you know):

(4) Nature of the proceeding:
(5) Grounds raised:
(6) Did you receive a hearing where evidence was given on your motion, petition, or
application? Yes □ No □
(7) Result:
(8) Date of result (if you know):
(b) If you filed any second motion, petition, or application, give the same information:
(1) Name of court:
(2) Docket or case number (if you know):
(3) Date of filing (if you know):
(4) Nature of the proceeding:
(5) Grounds raised:
(6) Did you receive a hearing where evidence was given on your motion, petition, or
application? Yes □ No □
(7) Result:
(8) Date of result (if you know):
(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your
motion, petition, or application?
(1) First petition: Yes \(\sigma\) No \(\sigma\)
(2) Second petition: Yes \( \text{No } \( \text{No } \)

•

(d)	If you	ı did	not.	appe	al fi	rom	the	action	on	any	motion,	petition,	or a	pplication,	explain	briefly
				7.	: -	••	٠.			_						
wh	y you	did r	iot:				:	∴.			• • •		• • •			

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the <u>facts</u> supporting each ground.

GROUND ONE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

ineffective assistance of coursel ( see attached brief in support)

- (b) Direct Appeal of Ground One:
  - (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes 🛛 No 🗆

- (2) If you did not raise this issue in your direct appeal, explain why:
- (c) Post-Conviction Proceedings:
  - (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes D No DY

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

	Docket or case number (if you know):
	Date of the court's decision:
·	Result (attach a copy of the court's opinion or order, if available):
:	
A .	그는 사용을 하는 일반 하는 사람들이 되는 일반을 하는 사람이 되었다.
	(3) Did you receive a hearing on your motion, petition, or application?
	Yes No
	(4) Did you appeal from the denial of your motion, petition, or application?
•	Yes No
•	(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?
	Yes O No O
	(6) If your answer to Question (c)(4) is "Yes," state:
	Name and location of the court where the appeal was filed:
	일본 사람이 되면 있는 항상 없는 사람들이 이번 사람이 하는 사람이 없었다.
	Docket or case number (if you know):
	Date of the court's decision:
•	Result (attach a copy of the court's opinion or order, if available):
٠. :	
	(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or
	raise this issue:
	공고 그리게 되는 이의 경기 가는 그는 경험 등록 본 시간에 되었다. 그는 것 같
. : .	
	보일하다 나는 아들어 되어 있다. 아들랑 사이지를 어떻게 되지 않아 들을 모수
GR	OUND TWO:
(a)	Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
	ineffective assistance of coursel
	( see attached boot in support)
	X sec attraction in a sopposition

(b) Direct Appear of Ground Two.
(1) If you appealed from the judgment of conviction, did you raise this issue?
Yes □ No 🗹
(2) If you did not raise this issue in your direct appeal, explain why:
claims of ineffective assistance of counsel
are properly raised on Collateral review
(c) Post-Conviction Proceedings:
(1) Did you raise this issue in any post-conviction motion, petition, or application?
Yes □ No □
(2) If your answer to Question (c)(1) is "Yes," state:
Type of motion or petition:
Name and location of the court where the motion or petition was filed:
김 이 전 교리는 그러고 결혼했습니다. 그리고 그는 것
Docket or case number (if you know):
Date of the court's decision:
Result (attach a copy of the court's opinion or order, if available):
(3) Did you receive a hearing on your motion, petition, or application?
Yes □ No □
(4) Did you appeal from the denial of your motion, petition, or application?
Yes Q No Q
(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?
Yes 🖸 No 🖸
(6) If your answer to Question (c)(4) is "Yes," state:
Name and location of the court where the appeal was filed:
Docket or case number (if you know):
Date of the court's decision:
Result (attach a copy of the court's opinion or order, if available):
,我们就是一个大大的,我们就会看着我们的一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个

	Page 8
(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not app	eal or
raise this issue:	
보면 요즘 어린 이를 하면 하는데 하는데 그런 이 경험에 먹고요 된다고 하다.	
ROUND THREE:	
Supporting facts (Do not argue or cite law. Just state the specific facts that support your c	aim.):
mettective assistance of counsel	
(see attached brief in Support)	
1 sec attached with in support	
아이들의 아이 소문이는 등 생각 아이들의 기원을 만하네요?	
Direct Appeal of Ground Three:	
(1) If you appealed from the judgment of conviction, did you raise this issue?	
Yes D No S	
(2) If you did not raise this issue in your direct appeal, explain why:  (icims of in effective essistance of course core properly rai	. (
cin collateral review	260
Post-Conviction Proceedings:	
(1) Did you raise this issue in any post-conviction motion, petition, or application?	
Yes □. No Œ	
化二氯甲基酚 医环境性 医电影 医鼻唇 化基氯化 化异子基 医皮肤 医皮肤的 医多氏管 医鼠科 医乳腺性的 化二十二烷 化	
(2) If your answer to Question (c)(1) is "Yes," state:	
Type of motion or petition:	
Name and location of the court where the motion or petition was filed:	

Docket or case number (if you know):

Date of the court's decision:

Result	(attach	a copy	of the	court's	opinion	or	order, if	availab	le):
	``.		• . •				:		'
	···		·	•	•	-, ' :			

경화가 하면 하게 가파가 그렇게 말하는 하는 그는 하는 생각이 있는 생각이 하는 생각이 되는 말을 했다.
(3) Did you receive a hearing on your motion, petition, or application?
Yes O No O
(4) Did you appeal from the denial of your motion, petition, or application?
Yes D No D
_(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?
Yes D No D
(6) If your answer to Question (c)(4) is "Yes," state:
Name and location of the court where the appeal was filed:
Docket or case number (if you know):
Date of the court's decision:
Result (attach a copy of the court's opinion or order, if available):
(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or
raise this issue:

## GROUND FOUR:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.);

Petitioner's waiver was not knowingly and involventarily made

한 회에 발표적은 제 하는 그 모모는 고향에서 되는 사람이 되었다. 그 수는 네 환경에 작용하는 것은 고객적으로 되고 있었다.
(b) Direct Appeal of Ground Four:
(1) If you appealed from the judgment of conviction, did you raise this issue?
Yes □ No ☑
(2) If you did not raise this issue in your direct appeal, explain why:
I had no knowledge of this issue when direct appeal
The was filed to the second of
(c) Post-Conviction Proceedings:
(1) Did you raise this issue in any post-conviction motion, petition, or application?
Yes 🖸 No 🗹
(2) If your answer to Question (c)(1) is "Yes," state:
Type of motion or petition:
Name and location of the court where the motion or petition was filed:
강마 그 아니는 마음이 나는 이름이 있다면 살아지다면 하는데 하지만 하지만 살아왔다.
Docket or case number (if you know):
Date of the court's decision:
Result (attach a copy of the court's opinion or order, if available):
Kesuit (attach a copy of the courts opinion of order, if available).
경기들은 맛이 그는 이 분들로 먹으신다. 그 사람들이 되는 그 속이 없다고 다.
(a) This state is a second of the second of
(3) Did you receive a hearing on your motion, petition, or application?
Yes D No.D D D D D D D D D D D D D D D D D D D
(4) Did you appeal from the denial of your motion, petition, or application?
Yes O. No. O.
(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?
Yes D No D
(6), If your answer to Question (c)(4) is "Yes," state:
Name and location of the court where the appeal was filed:
Docket or case number (if you know):
Date of the court's decision:
Result (attach a copy of the court's opinion or order, if available):
선물로 한다면 하다면 한 이렇게 한다면 한 다른 나는 이렇게 이 한다면 하다면 한다면 하는데

(7) If your answe	r to Question	(c)(4) or (	Question	(c)(5) is "No,	explain why	you did	not appeal o	r
raise this issue:								

13. Is there any ground in this motion that you have <u>not</u> previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes \(\sigma\) No \(\sigma\)

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Geoffrey W. Hostord, PO. Box 1653; Wilminston, N.C. 28402

(b) At arraignment and plea:

- (c) At trial:
- (d) At sentencing:

	(e) On appeal: Deborrah L. Newton, Newton Law, 557 East Edenton St., Raleigh, N.C.
	(f) In any post-conviction proceeding:
	[대화생님] 회사 발표시간이 돌아있다고 있는 이번 대전 하는 경찰을 받고 이 말했다고.
	(g) On appeal from any ruling against you in a post-conviction proceeding:
16.	Were you sentenced on more than one count of an indictment, or on more than one indictment, in
. 7.	the same court and at the same time? Yes $\mathbf{v}$ No $\Box$
17.	Do you have any future sentence to serve after you complete the sentence for the judgment that
	you are challenging? Yes □ No 👿
	(a) If so, give name and location of court that imposed the other sentence you will serve in the
· · · ·	future:
· ·	(b) Give the date the other sentence was imposed:
	(c) Give the length of the other sentence:
	(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the
	judgment or sentence to be served in the future? Yes □ No □

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

I have been on lock-down status without occess to law library or legal aid for the past year. See Attached motion for Equitable Tolling and exhibits.

<sup>\*</sup>The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C.

<sup>§ 2255,</sup> paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

<sup>(1)</sup> the date on which the judgment of conviction became final;

<sup>(2)</sup> the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action:

<sup>(3)</sup> the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

<sup>(4)</sup> the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

وهوال المرافق في المنظم المرافق	wing relief:
remand and resentence en	- Cit COV 113
( see attached brief in	Support
or any other relief to which movant may be entitled.	
	보는 그림도 한 경우나라 중제공
	Signature of Attorney (if any)
아님이라 얼룩 하는데 보고 아무리는	
I declare (or certify, verify, or state) under penalty of	perjury that the foregoing is true and correct
and that this Motion under 28 U.S.C. § 2255 was place	ed in the prison mailing system on
(month, date, year)	
Executed (signed) on (date).	
	Voices Court
	Kepin Swih
	Klun Smih Signature of Movant
	Signature of Movant
If the person signing is not movant, state relationship	Signature of Movant
	Signature of Movant
If the person signing is not movant, state relationship	Signature of Movant
If the person signing is not movant, state relationship	Signature of Movant
If the person signing is not movant, state relationship	Signature of Movant
If the person signing is not movant, state relationship	Signature of Movant
If the person signing is not movant, state relationship	Signature of Movant
If the person signing is not movant, state relationship	Signature of Movant

## Motion to Vacate, Set Aside, or Correct a Sentence By a Person in Federal Custody

(Motion Under 28 U.S.C. § 2255)

## Instructions

- To use this form, you must be a person who is serving a sentence under a judgment against you
  in a federal court. You are asking for relief from the conviction or the sentence. This form is
  your motion for relief.
- 2. You must file the form in the United States district court that entered the judgment that you are challenging. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file the motion in the federal court that entered that judgment.
- 3. Make sure the form is typed or neatly written.
- 4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
- 5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary: If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
- 6. If you cannot pay for the costs of this motion (such as costs for an attorney or transcripts), you may ask to proceed in forma pauperis (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
- 7. In this motion, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different judge or division (either in the same district or in a different district), you must file a separate motion.
- 8. When you have completed the form, send the original and two copies to the Clerk of the United\_ States District Court at this address:

Clerk, United States District Court for Estua District of North Carolina.

Address
City, State Zip Code

- 9. <u>CAUTION</u>: You must include in this motion <u>all</u> the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this motion, you may be barred from presenting additional grounds at a later date.
- 10. <u>CAPITAL CASES</u>: If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.